

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

Dan Temple, Jr., #254316, <i>a/k/a Daniel Temple</i> ,	C/A No. 9:13-cv-02207-TLW
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PETITIONER

V.

## Order

State of South Carolina,

RESPONDENT

Dan Temple, Jr., proceeding *pro se*, submitted a petition for a writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. # 1.) The matter now comes before the Court for review of the Report and Recommendation (Report) filed on September 13, 2013 by Magistrate Judge Bristow Marchant, to whom this case was previously assigned. (Doc. #6.) In the Report, the Magistrate Judge recommends summarily dismissing the petition without prejudice based on the Petitioner's failure to obtain leave from the Fourth Circuit Court of Appeals to file this successive § 2254 petition. The Petitioner filed objections to the Report on October 7, 2013, though his objections did not address the basis for the Magistrate Judge's recommendation. (Doc. #9.) In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections . . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

*Wallace v. Hous. Auth. of City of Columbia*, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted)

In light of the standard set forth in *Wallace*, the Court has reviewed, *de novo*, the Report and the objections. After careful review of the Report and the objections, the Court **ACCEPTS** the Report. (Doc. #6.) The Petitioner's objections are **OVERRULED**. (Doc. #9.) Accordingly, the Petitioner's habeas petition is **DISMISSED WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
Terry L. Wooten  
Chief United States District Judge

November 6, 2013  
Columbia, South Carolina